

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
10

11 SCOTT KMETY, an individual, DARLA
12 KMETY, an individual,
13
14 Plaintiff,

15 vs.

16 BANK OF AMERICA, INC., a
17 corporation; MORTGAGE ELECTRONIC
18 REGISTRATION SYSTEMS, a
19 corporation; RECONSTRUST
20 COMPANY, a trustee; and DOES 1
21 through 20,

22 Defendants.
23
24
25

CASE NO. 10cv1910-LAB (RBB)

**ORDER DISMISSING CERTAIN
CLAIMS; AND**

ORDER OF REMAND

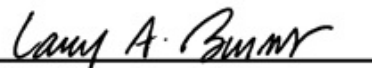
26 On September 30, 2011, the Court issued an order dismissing Plaintiffs' claims under
27 the Truth in Lending Act (TILA) and the Real Estate Settlement Practices Act (RESPA),
28 without prejudice, but requiring Plaintiffs within 14 calendar days to show cause why these
two claims should not be dismissed with prejudice. The order cautioned the parties that if
Plaintiffs did not show cause as ordered, the TILA and RESPA claims would be dismissed
with prejudice and this action remanded to state court.

Since that time, Plaintiffs have not filed any response, nor sought additional time in
which to do so. Plaintiffs' claims under TILA and RESPA are therefore **DISMISSED WITH
PREJUDICE.**

1 Because the Court has dismissed all claims over which it has original jurisdiction,
2 pursuant to 28 U.S.C. § 1367(c)(3) it declines to exercise jurisdiction over Plaintiffs' state
3 claims. See *Harrell v. 20th Century Ins. Co.*, 934 F.2d 203, 205 (9th Cir. 1991) ("[I]t is
4 generally preferable for a district court to remand remaining pendent claims to state court
5") This action is therefore **REMANDED** to the Superior Court of the State of California
6 for the County of San Diego.

7 **IT IS SO ORDERED.**

8 DATED: October 17, 2011

9 
10 **HONORABLE LARRY ALAN BURNS**
11 United States District Judge
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28